

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:)	Chapter 11
)	
SPD II Makaiwa Resort Development, LLC,)	Case No. 23-7153
)	
Debtor.)	Honorable David D. Cleary
)	
)	

**WALSH CONSTRUCTION COMPANY II, LLC’S OBJECTION
TO EXHIBIT 9 ON CORBAN KAUAI CHICAGO LENDER, LLC’S EXHIBIT LIST**

Walsh Construction Company II, LLC, creditor herein (“**Walsh**”), submits the following objections to Exhibit Number 9, [Dkt. # 198] Findings Of Fact, Conclusions Of Law, And Order Confirming The Second Amended Plan of Liquidation Under Chapter 11 Of The United States Bankruptcy Code (the “**Proposed Findings and Conclusions**”), proposed by Corban Kauai Chicago Lender, LLC (“**Corban Kauai**”) in Corban Kauai’s List of Witnesses and Exhibits for the Evidentiary Hearing Scheduled on September 27, 2024, [Dkt #234]. In support thereof, Walsh respectfully states as follows:

I. OBJECTION

1. On July 29, 2024, the parties filed a Joint Statement of Corbin Kauai Chicago Lender LLC and Walsh Construction Company II, LLC Regarding Agreed Facts, Disputed Facts, Agreed Legal Positions, Disputed Legal Positions, Agreed Scheduling Deadlines And Disputed Scheduling Deadlines Regarding The Objection Of Walsh Construction To Confirmation of The Amended Plan [Dkt# 220] (the “**Joint Stipulation**”) in this case.

2. On September 4, the Court entered that certain Amended Pretrial Order [Dkt# 244] (the “**Pretrial Order**”) in this case. An evidentiary hearing on confirmation of the Second Amended Plan of Liquidation Under Chapter 11 Of The United States Bankruptcy Code (the “**Second Amended Plan**”) has been scheduled for September 27, 2024, pursuant to the Pretrial Order.

3. Walsh has timely filed its Witness List and Exhibit List in accordance with the Pretrial Order. Walsh intends to submit its proposed witness testimony and related evidence reflected in its Witness List and Exhibit List at the evidentiary hearing on confirmation of the Second Amended Plan. Walsh also intends to file its trial brief on or before September 18, 2024, in accordance with the terms of the Pretrial Order.

4. Without waiving the allegations of fact and conclusions of law asserted by Walsh in the Joint Stipulation, and subject to the evidence to be submitted at the evidentiary hearing on confirmation of the Second Amended Plan and the contentions of law to be raised in Walsh’s Trial Brief, Walsh submits the following additional objections to the Proposed Findings and Conclusions:

(a) *Finding C – Eligibility for Relief.* Walsh objects to finding C and contends that the Plan Proponent is not an entity eligible for relief under Section 109 of the Bankruptcy Code.

(b) *Finding F – Solicitation Order.* Walsh objects to finding F and contends that the solicitation of votes conducted by Corban Kauai was not consistent with the provisions of the Bankruptcy Code. Walsh also reasserts and incorporates herein Walsh’s objection to Corban Kauai’s Exhibit 4, the Voting Declaration filed simultaneously herewith.

(c) *Finding I – Voting.* Walsh objects to finding I and contends that the solicitation of votes conducted by Corban Kauai was not consistent with the provisions of the Bankruptcy Code. Walsh also reasserts and incorporates herein Walsh’s objection to Corban Kauai’s Exhibit 4 filed simultaneously herewith.

(d) *Finding K – Burden of Proof.* Walsh agrees that Corban Kauai carries the burden of proof on all applicable elements of Section 1129 of the Bankruptcy Code but contends that Corban Kauai has not satisfied its burden on the record in this case.

(e) *Finding L – Modifications to the Amended Plan.* Walsh objects to finding L and contends that Corban Kauai has failed to properly amend the Second Amended Plan or file any proper modifications to the Second Amended Plan.

(f) *Findings N, O, P and R – Compliance with 11. U.S.C. §1129(a)(1) through (3) and (a)(5).* Walsh objects to said findings and contents that Corban Kauai has not satisfied the referenced requirements of the Bankruptcy Code. Walsh reasserts and incorporates herein as if fully set forth Walsh's Combined Objection to Corban Kauai's Exhibits 5, 6 and 7 and further incorporates herein as if fully set forth Walsh's contentions in its Trial Brief to be filed.

(g) *Finding T – Compliance with 11. U.S.C. §1129(a)(7).* Walsh objects to finding T and contends that the Corban Kauai has not satisfied the best interests of creditors test as it relates to Walsh. Walsh further incorporates herein as if fully set forth Walsh's contentions in its Trial Brief to be filed.

(h) *Findings U, V, W – Classification of Claims and Acceptance of Classes.* Walsh objects to said findings and contents that Corban Kauai has not satisfied the acceptance requirements of the Bankruptcy Code. Walsh reasserts and incorporates herein as if fully set forth Walsh's Objection to Corban Kauai's Exhibit 4 and further incorporates herein as if fully set forth Walsh's contentions in its Trial Brief to be filed.

(i) *Finding AA – Compliance with 11. U.S.C. §1129(b).* Walsh objects to finding AA and contends that the Second Amended Plan discriminates unfairly and is not fair and equitable as required by the Bankruptcy Code. Walsh further incorporates herein as if fully set forth Walsh's contentions in its Trial Brief to be filed

(j) *Findings EE and GG - Satisfaction of Confirmation Requirements.* Walsh objects to finding EE and GG and contents that Corban Kauai has not satisfied the confirmation requirements of the Bankruptcy Code, including the obligation of good faith.. Walsh reasserts and incorporates herein as if fully set forth Walsh's Combined Objection to Corban Kauai's Exhibits 5, 6 and 7 as well as Walsh's objection to Corban Kauai's Exhibit 4. Walsh further incorporates herein as if fully set forth Walsh's contentions in its Trial Brief to be filed.

(k) *Findings HH, JJ, KK, LL and MM – Restrictions on Enforcement of Estate Causes of Action, Exculpation, Injunction, Preservation of Causes of Action and Disclosure of Agreements.* Walsh objects to said findings and contends that such provisions of the Second amended Plan violate the provisions of an policy under the Bankruptcy Code.

II. CONCLUSION

5. Based upon the foregoing, the Findings and Conclusions and confirmation of the Second Amended Plan of Liquidation Under Chapter 11 Of The United States Bankruptcy Code, filed by Corban Kaua Chicago Lender, LLC should be denied.

Respectfully submitted,

WALSH CONSTRUCTION COMPANY II, LLC

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